

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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GAVIN C. THOMAS,

Petitioner,

9:18-cv-0706 (BKS/ATB)

v.

EARL BELL,

Respondent.

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**Appearances:**

*Petitioner, pro se:*

Gavin C. Thomas

16-A-0095

Coxsackie Correctional Facility

P.O. Box 999

Coxsackie, NY 12051

*For Respondent:*

Letitia James

Attorney General of the State of New York

Priscilla I. Steward

Assistant Attorney General, of Counsel

28 Liberty Street

New York, NY 10005

**Hon. Brenda K. Sannes, United States District Judge:**

**MEMORANDUM-DECISION AND ORDER**

On June 18, 2018, Petitioner Gavin C. Thomas filed a petition under 28 U.S.C. § 2254 seeking the issuance of a writ of habeas corpus. (Dkt. No. 1). Respondent filed a response to the petition on October 5, 2018, and Petitioner filed a traverse on October 25, 2018. (Dkt. Nos. 7, 9). This matter was referred to United States Magistrate Judge Andrew T. Baxter who, on July 31, 2019, issued a Report-Recommendation recommending that the petition be denied and dismissed, and that a certificate of appealability be denied. (Dkt. No. 11). Magistrate Judge

Baxter advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. (Dkt. No. 11, at 28). No objections have been filed.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Report-Recommendation is adopted in its entirety.

For these reasons, it is

**ORDERED** that the Report-Recommendation (Dkt. No. 11) is **ADOPTED** in its entirety; and it is further


**ORDERED** that the petition (Dkt. No. 1) is **DENIED AND DISMISSED**; and it is further

**ORDERED** that no Certificate of Appealability (“COA”) shall issue because Petitioner has failed to make “a substantial showing of the denial of a constitutional right” as required by 28 U.S.C. § 2253(c)(2). Any further request for a COA must be addressed to the Court of Appeals (Fed. R. App. P. 22(b)); and it is further

**ORDERED** that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: October 1, 2019  
Syracuse, New York

  
**Brenda K. Sannes**  
U.S. District Judge